

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

ERIC GILMORE and REBECCA MAHONY,	§	
Individually and as Next Friends of K.G., a Minor,	§	
Plaintiffs,	§	
	§	
v.	§	Civil Action No. 4:23-cv-00704-SDJ
	§	
770 IMPORTS, INC., AUTOHAUS, 24, LLC,	§	
COTTON VALLEY, LLC d/b/a UNI COT,	§	
FLOATIE KINDS, IMAGINATION	§	
OVERDRIVE, INC., and SPIKA PRODUCTS	§	
INTERNATIONAL, LTD,	§	
Defendants.	§	

DEFENDANT AUTOHAUS 24, LLC'S ORIGINAL ANSWER

COMES NOW, Autohaus 24, LLC (hereinafter "Autohaus" or Defendant") and files this Original Answer in response to Plaintiffs' Original Complaint, and would show the Court as follows:

PARTIES

1. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 1.1 of the Complaint and therefore must deny same at this time.
2. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 1.2 of the Complaint and therefore must deny same at this time.
3. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 1.3 of the Complaint and therefore must deny same at this time.
4. Autohaus admits the truth of the allegations in Paragraph 1.4 of the Complaint as to Autohaus being a California limited liability company but denies that Autohaus does business in Texas sufficient to be subject to the jurisdiction of the Court.
5. Autohaus lacks knowledge or information sufficient to form a belief about the truth

of the allegations in Paragraph 1.5 of the Complaint and therefore must deny same at this time.

6. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 1.6 of the Complaint and therefore must deny same at this time.

7. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 1.7 of the Complaint and therefore must deny same at this time.

8. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 1.8 of the Complaint and therefore must deny same at this time.

JURISDICTION AND VENUE

9. Autohaus denies the truth of the first sentence of Paragraph 2.1 concerning the District Court having jurisdiction over Autohaus. Autohaus admits the truth of the allegations pertaining to Autohaus in the sixth sentence of Paragraph 2.1 of the Complaint which state that Autohaus is a limited liability company formed under the laws of California, but denies that truth of the allegations that Autohaus does business in Texas sufficient to be subject to the jurisdiction of the Court. Autohaus has no stores or employees in Texas. Further, Autohaus lacks knowledge or information to form a belief about the truth of the allegations in any other sentence of Paragraph 2.1 of the Complaint and therefore must deny same at this time.

10. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 2.2 of the Complaint and therefore must deny same at this time.

FACTUAL BACKGROUND

11. Autohaus denies the truth of the allegations in Paragraph 3.1 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement

in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

12. Autohaus denies the truth of the allegations in Paragraph 3.2 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

13. Autohaus denies the truth of the allegations in Paragraph 3.3 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

14. Autohaus denies the truth of the allegations in Paragraph 3.4 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

15. Autohaus denies the truth of the allegations in Paragraph 3.5 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

16. Autohaus denies the truth of the allegations in Paragraph 3.6 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

PRODUCTS LIABILITY AGAINST AUTOHAUS

17. The allegations in Paragraph 4.1 of the Complaint do not require Defendant to admit or deny.

18. Autohaus denies the truth of the allegations in Paragraph 4.2 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

19. Autohaus denies the truth of the allegations in Paragraph 4.3 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

20. Autohaus denies the truth of the allegations in Paragraph 4.4 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

21. Autohaus denies the truth of the allegations in Paragraph 4.5 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

22. Autohaus denies the truth of the allegations in Paragraph 4.6 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

23. Autohaus denies the truth of the allegations in Paragraph 4.7 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

24. Autohaus denies the truth of the allegations in Paragraph 4.8 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

25. Autohaus denies the truth of the allegations in Paragraph 4.9 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement

in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

NEGLIGENCE AGAINST AUTOHAUS

26. Autohaus denies the truth of the allegations in Paragraph 4.10 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

27. Autohaus denies the truth of the allegations in Paragraph 4.11 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

28. Autohaus denies the truth of the allegations in Paragraph 4.12 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

29. Autohaus denies the truth of the allegations in Paragraph 4.13 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

BREACH OF EXPRESS WARRANTY AGAINST AUTOHAUS

30. Autohaus denies the truth of the allegations in Paragraph 4.14 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

31. Autohaus denies the truth of the allegations in Paragraph 4.15 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

32. Autohaus denies the truth of the allegations in Paragraph 4.16 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

33. Autohaus denies the truth of the allegations in Paragraph 4.17 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

34. Autohaus denies the truth of the allegations in Paragraph 4.18 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track

Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
AGAINST AUTOHAUS**

35. Autohaus denies the truth of the allegations in Paragraph 4.19 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

36. Autohaus denies the truth of the allegations in Paragraph 4.20 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

37. Autohaus denies the truth of the allegations in Paragraph 4.21 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

38. Autohaus denies the truth of the allegations in Paragraph 4.22 of the Complaint, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement

in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump.

DAMAGES

39. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 5.1 of the Complaint and therefore must deny same at this time.

40. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 5.2(a) of the Complaint and therefore must deny same at this time.

41. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 5.2(b) of the Complaint and therefore must deny same at this time.

42. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 5.2(c) of the Complaint and therefore must deny same at this time.

43. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 5.2(d) of the Complaint and therefore must deny same at this time.

44. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 5.2(e) of the Complaint and therefore must deny same at this time.

PRAYER

45. Autohaus denies the truth of the allegations in Prayer of the Complaint as to liability of Autohaus, as Autohaus did not design, manufacture, produce, import, distribute, sell, or market the Air Track Mat w/Pump. Further, the business of Autohaus is auto parts sales. Autohaus has no involvement in any aspect of the design, manufacture, marketing, or sales of products such as the Air Track Mat w/Pump. Autohaus prays that the Court dismiss Plaintiff's claims against Autohaus and award costs and attorneys' fees to Autohaus.

46. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Prayer of the Complaint concerning damages and therefore must deny same at this time.

47. Autohaus lacks knowledge or information sufficient to form a belief about the truth of the allegations in Prayer of the Complaint as to entitlement to recover interest or court costs and therefore must deny same at this time.

AFFIRMATIVE DEFENSES

48. Defendant contends that Plaintiff's claims and causes of action are barred by applicable statutes of limitations.

49. Defendant contends that acts or omissions attributed to Defendant by Plaintiffs were not the proximate or producing cause of Plaintiffs' alleged damages.

50. Defendant contends that Plaintiffs' claims are barred, in whole or in part, by a new and independent cause and/or superseding cause which was the proximate cause of Plaintiffs' alleged damages.

51. Defendant contends that Plaintiffs' damages were caused, in whole or in part, by other parties over whom Defendant had no control and for which Defendant had no responsibility.

WHEREFORE, PREMISES CONSIDERED, Defendant Autohaus 24, LLC prays that the Court deny Plaintiffs' claims for relief, that Defendant be awarded its costs, and for such other and further relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

WALTERS, BALIDO & CRAIN, L.L.P.

BY: /s/ S. Todd Parks
S. TODD PARKS – 15526520
todd.parks@wbclawfirm.com
RANDY J. HALL – 08769320

randy.hall@wbclawfirm.com

400 East Main Street

Decatur, Texas 76234

940-626-8254

214-204-2101 (Facsimile)

Service of Documents:

ParksEDocsNotifications@wbclawfirm.com

COUNSEL FOR DEFENDANT

AUTOHAUS 24, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served upon all parties of record on the 22nd day of September 2023 in accordance with the Federal Rules of Civil Procedure.

/s/ S. Todd Parks

S. TODD PARKS

RANDY J. HALL